IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF AUGUST
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

WRIT PETITION NO : 5733 of 2005

Between:

P. Kesava Charyulu, S/O. Late Chakracharyulu,
Archaka, R/O. Kothapet,
Prakasam Dristrict.

..... PETITIONER

AND

1. The Commissioner Of Endowments Department,
   Tilak Road , Hyderabad.
2. The Veugopala & Sri Anjaneya Swamy Temple, represented

by its Manager, Ponduru Village , Tangutur Mandal,
Prakasam District.

.....RESPONDENTS

The Court made the following:

ORDER:

Questioning the action of the first respondent in issuing the proceedings in R. Dis.No.M1/38878/04, dated 03.03.2005 permitting the second respondent to conduct public auction of leasehold rights of Ac.25.00 cents of land in Survey No.311 in Ponduru village, Tangutur Mandal, Prakasam District on 21.03.2005, the present writ petition has been filed.

The case of the petitioner, in brief, is that he has been performing the archakatvam services in the second respondent temple since several years. In the year 1972, his predecessors were allotted temple land in an extent of Ac.42.79 cents by the first respondent and the said land was equally divided among the four archakas and out of which Ac.10.69 cents of land was given to his grand father viz., Raghavacharyulu. After the death of said Raghavacharyulu, his father had succeeded to the said land and after the death of his father, he petitioner succeeded the said land and has been continuing in possession of the same. It is the further case of the petitioner that the first respondent issued proceedings in R.Dis.No.M1/38878/04, dated 03.03.2005 permitting the second respondent to conduct public auction of leasehold rights of Ac.25.00 cents land in Survey No.311 in Ponduru village, Tangutur Mandal, Prakasam District, on 21.03.2005. Challenging the same, the present writ petition has been filed.

The second respondent temple filed its counter contending that the grand father and father of the petitioner were died in the year 1970 and so, the allotment of Ac.10.69 cents by the petitioner's grand father by virtue of the deed dated 07.03.1972 does not arise. The petitioner is having possession of only in an extent of Ac.2.75 cents. The petitioner is not working in the temple for the last so many years. The petitioner is not the owner of the land in question and admittedly, he is not performing any archakavatam in the temple. It is further contended that an appeal lies against the orders of the first respondent before the Deputy Commissioner under Section 87 of the Endowments Act for a declaration and without availing the said remedy, the petitioner approached this Honourable Court. The petitioner failed to produce any piece of valid evidence to show that the land was allotted by the temple authorities in his name. As grand father and father of the petitioner were died in the year 1970, he cannot rely upon the document dated 07.03.1972 and said that the land was allotted in the name of his grand father, who already passed away by that time, and hence, the writ petition is totally devoid of merits and the same is liable to be dismissed.

The petitioner filed a reply affidavit reiterating the contentions raised in the affidavit filed in support of the writ petition and contended that in fact the

proceedings dated 07.03.1972 did not specify the names of the persons to whom the lands were allotted and that who were conducting the Archakatvam. It is further contended that after passing the interim orders by this Honourable Court in W.P.M.P.No.758 of 2005 in W.P.No.5733 of 2005, dated 18.03.2005, the Commissioner of Endowments vide proceedings dated 19.03.2005, cancelled the impugned order dated 03.03.2005 wherein the first respondent ordered for resumption of the lands in possession of the petitioner to conduct public auction therefor. The first respondent issued proceedings directing the Endowment authorities including the second respondent to allow the Archakas to enjoy the land as usual by themselves without disputes. Even though, the first respondent specifically mentioned that the impugned order dated 03.03.2005 was cancelled and directed the authorities to continue the petitioner as archaka along with other archakas, the second respondent highhandedly and in contrary to the orders passed by the first respondent conducted the auction on 20.03.2005 without following the procedure. It is further contended that he is in peaceful possession and enjoyment of the land and his name is mutated in the revenue records. Since the first respondent by his proceedings dated 24.10.2003 already directed all his subordinate officers including the second respondent herein not to disturb the lands in possession of the archakas, who are conducting archakatvam in the 6 (c) category temples, the petitioner is entitled to continue as archaka of the subject temple irrespective of his age and as long as the conducting of Archakatvam.

The learned counsel for the petitioner contended that the Joint Commissioner, Endowments, Hyderabad vide proceedings in R.Dis.No.44344/1967, dated 07.03.1972, apportioned the land of the second respondent between the archakas and the temple and according to the said apportionment, Ac.42.79 cents of land fell to the share of Archakas and the said land was equally divided among the four archakas and out of which Ac.10.69 cents of land was given to the grand father of the petitioner viz., late Sri Raghavacharyulu, and therefore, the respondents cannot auction the leasehold rights of the subject land.

On the other hand, the learned standing counsel for the second respondent contended that the grand father and father of the petitioner were died in the year 1970, and therefore, the question of allotting Ac.10.69 cents to the petitioner

does not arise and that the petitioner has not been discharging his duties for the last four years and that the petitioner on his attaining the age of supernnuation of 58 years, is not working in the temple, and therefore, the writ petition is totally devoid of merits and is liable to be dismissed.

The entire claim of the petitioner is based upon the proceedings issued by the Joint Commissioner, Endowments, Hyderabad vide proceedings R.Dis.No.444344/1967, dated 07.03.1972, wherein it is clearly stated that the temple has got the share to an extent of Ac.14.26 cents and whereas the Archakas have got the share of Ac.42.79 cents. It is not in dispute that four archakas have been working in the second respondent temple.

A specific plea has been taken in the affidavit filed in support of the petition that as there were four archakas to the temple, the land was equally divided between them out of which an extent of Ac.10.69 cents of land fell to the share of the petitioner's grand father late Raghavacharyulu. The petitioner's father had succeeded to the said land after the death of his grand father and after the death of his father, the petitioner has been continuing in the said land.

In the counter affidavit, it is specifically stated by the second respondent that the grand father and father of the petitioner died in the year 1970, and so, he cannot rely upon the deed dated 07.03.1972. Therefore, the allegation that the petitioner derived the property through his grand father on the face of the said deed is false, because in the reply affidavit the petitioner has not produced any material to controvert the same. Hence, the very basis of the petitioner's claim falls to the ground, and he cannot have any right, much less illegal right, so as to stall the auction proceedings. Since the petitioner failed to establish his infringement of legal right, the other contentions raised are only academic and need not be answered. Therefore, the writ petition is totally devoid of merits and is liable to be dismissed.

Accordingly, the writ petition is dismissed. No order as to costs.

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(K.C. BHANU, J)

Date: 30.08.2005

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